



# DECLARATION FOR ORIGINAL U.S. PATENT APPLICATION

Attorney's Docket No. **PLUSP038**

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled: ACTIVE METAL FUEL CELLS, the specification of which,

(check one)

1. ☐ is attached hereto.
2. ☒ was filed on April 14, 2004 as  
U.S. Application No. 10/825,587  
and was amended on \_\_\_\_\_.
3. ☐ was filed on \_\_\_\_\_ as  
International PCT Application Serial No. \_\_\_\_\_  
and was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, CFR §1.56.

## Prior Foreign Application(s)

I hereby claim foreign priority benefits under Title 35, United States code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

			Priority Benefits Claimed?
			Yes No
_____ (Appl. No.)	_____ (Country)	_____ (Date Filed- Day/Month/Year)	Yes No
_____ (Appl. No.)	_____ (Country)	_____ (Date Filed- Day/Month/Year)	Yes No

## Provisional Application(s)

I hereby claim the benefit under 35 U.S.C. §119(e) of any United States provisional application(s) listed below:

<u>60/529,825</u> (Application No.)	<u>December 15, 2003</u> (Filing Date)
<u>60/518,948</u> (Application No.)	<u>November 10, 2003</u> (Filing Date)

## Prior U.S. Application(s)

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this applications is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, § 1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application No.)	_____ (Filing Date)	_____ (Status - patented, pending, abandoned)
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Atty. Dkt. No.: PLUSP038

Page 1 of 2

(Application No.)

(Filing Date)

(Status - patented, pending, abandoned)

Send Correspondence To:

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022434

Direct Telephone Calls To:

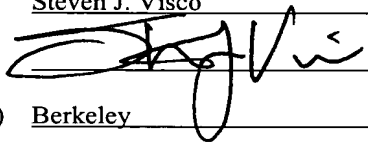
James E. Austin at telephone number (510) 843-6200

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Typewritten Full Name of

Sole or First Inventor: Steven J. Visco

Citizenship: United States of America

Inventor's signature: 

Date of Signature: 4/29/04

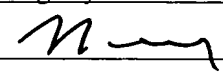
Residence: (City) Berkeley

(State/Country) California/USA

Post Office Address: 546 Arlington Avenue, Berkeley, California 94707

Second Inventor: Yevgeniy S. Nimon

Citizenship: United States of America

Inventor's signature: 

Date of Signature: 4/29/04

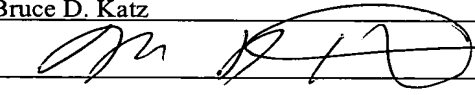
Residence: (City) Danville

(State/Country) California/USA

Post Office Address: 10 Cross Bridge Place, Danville, California 94526

Third Inventor: Bruce D. Katz

Citizenship: United States of America

Inventor's signature: 

Date of Signature: 5/4/04

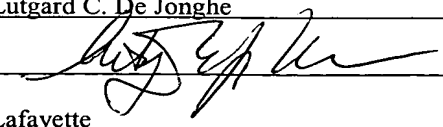
Residence: (City) Berkeley

(State/Country) California/USA

Post Office Address: 1672 Oxford Street, Berkeley, California 94709

Fourth Inventor: Lutgard C. De Jonghe

Citizenship: United States of America

Inventor's signature: 

Date of Signature: 05/04/04

Residence: (City) Lafayette

(State/Country) California/USA

Post Office Address: 910 Acalanes Road, Lafayette, California 94549



PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Visco et al.

Attorney Docket No.: PLUSP038

Application No.: 10/825,587

Examiner: Not yet assigned

Filed: April 14, 2004

Group: Not yet assigned

Title: ACTIVE METAL FUEL CELLS

**POWER OF ATTORNEY BY ASSIGNEE, 37 CFR §3.73 STATEMENT, AND EXCLUSION  
OF INVENTOR UNDER 37 CFR §3.71**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PolyPlus Battery Company** is the assignee of the above-referenced patent application by virtue of an assignment document. The assignment document is/was recorded:

☐ at Reel \_\_\_, Frame(s) \_\_\_

☐ on \_\_\_\_\_

☒ submitted concurrently herewith

The assignee represents, pursuant to 37 C.F.R. §3.73(b), that the undersigned is a representative authorized and empowered to sign on behalf of the assignee.

Pursuant to 37 C.F.R. §§1.36 and 3.71, the assignee hereby revokes all powers of attorney previously given and hereby appoints the law firm of Beyer Weaver & Thomas, LLP and all practitioners who are associated with the **Customer Number 022434** as principal attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

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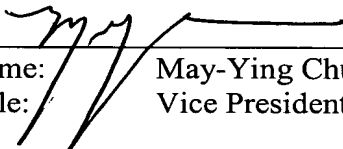
Please direct any calls to **James E. Austin** (510) 843-6200.

Further, pursuant to 37 C.F.R. §3.71, the assignee hereby states that prosecution of the above-referenced patent application is to be conducted to the exclusion of the inventor(s).

Assignee of Interest:

PolyPlus Battery Company  
2431 Fifth Street, Suite B,  
Berkeley, California, 94710

Date 4/29/04

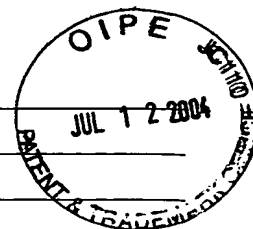
  
Name: May-Ying Chu  
Title: Vice President of Operations

Applicant/Patentee: PolyPlus Battery Company

Application or Patent No. 10/825,587

Atty Docket # PLUSP038

Filed or Issued: April 14, 2004



VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
37 CFR 1.9(f) and 1.27(c)--SMALL BUSINESS CONCERN

I hereby declare that I am

☐ the owner of the small business concern identified below:

☒ an official empowered to act on behalf of the small business concern identified below:

NAME OF CONCERN: PolyPlus Battery Company

ADDRESS: 2431 Fifth Street, Suite B, Berkeley, California, 94710

I hereby declare that the above identified small business concern qualifies as a small business concern as defined in 13 CFR 121.3-18, and reproduced in 37 CFR 1.9(d), for purposes of paying reduced fees under 41(a) and (b) of Title 35, U.S. Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average over the previous fiscal year of the concern of the persons employed on a full-time, part-time or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled: ACTIVE METAL FUEL CELLS, by inventor(s) Steven J. Visco, Yevgeniy S. Nimon, Bruce D. Katz, and Lutgard C. De Jonghe, described in

☐ the specification filed herewith.

☒ Application No. 10/825,587 filed April 14, 2004

☐ patent # \_\_\_\_\_ issued \_\_\_\_\_

If the rights held by the above-identified small business concern are not exclusive, each individual, concern or organization having rights to the invention is listed below\* and no rights to the invention are held by any person, other than the inventor, who could not qualify as a small business concern under 37 CFR 1.9(d) or by any concern which would not qualify as a small business concern under 37 CFR 1.9(d) or a nonprofit organization under 37 CFR 1.9(e).  
\*Note: separate verified statements are required from each named person, concern or organization having rights to the invention averring to their status as small entities. (37 CFR 1.27)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

☐ individual ☐ small business concern ☐ nonprofit organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 CFR 1.28(b)).

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 1001 of Title 18 of the U.S. Code, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING: May-Ying Chu

TITLE IN ORGANIZATION: Vice President of Operations

SIGNATURE

DATE 4/29/04